GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Mines and Minerals – Mining Lease granted for Bauxite over an extent of 460.000 Hactares in Jarrela Block-III of Chintapalli R.F., Visakhapatnam District in favour of M/s APMDC Ltd. for a period of thirty (30) years – Revocation of Mining Lease – Orders – Issued.

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INDUSTRIES, INFRASTRUCTURE, INVESTMENT AND COMMERCE (M.II) DEPARTMENT

G.O.MS.No. 85 Dated: 26-09-2019

Read the following:

1. G.O.Ms.No.360, Industries & Commerce (M.III) Dept., Dt.28.12.2007.
2. Director of Mines & Geology's e-file No. File No: INC04-11027(44)/4/2019-R I SEC-DMG Dt.29.07.2019.

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ORDER:

In the G.O. first read above, Government had granted a Mining Lease for Bauxite over an extent of 460.000 Hactares in Jarrela Block-III of Chintapalli R.F., Visakhapatnam District in favour of M/s APMDC Ltd. for a period of thirty (30) years, subject to obtaining Forest Clearance and also prior clearances of Consent for Establishment from A.P. Pollution Control Board, Public Hearing and Environmental Clearances from MoEF, GoI, as per the Notification No.S.O. 1533, dated 14.09.2006 and subject to satisfaction of the provisions of the MM (D&R) Act, 1957 and the rules made thereunder in general, and also subject to the conditions in Form-K prescribed under the Mineral Concession Rules, 1960 and to the additional conditions specified in the Appendix. Among other conditions specified in the said G.O., the grantee should execute the lease deed within the time limit prescribed in rule 31 of the Mineral Concessions Rules, 1960.

2. The Government of Andhra Pradesh (GoAP) had entered into a Memorandum of Understanding (MoU) dated:14.02.2007 with the Government of Ras-al-Khaimah for the construction of an alumina refinery and smelter in the state of Andhra Pradesh. Under the MoU, GoAP agreed to direct Andhra Pradesh Mineral Development Corporation (APMDC) to supply Bauxite to the proposed Refinery and Smelter plant from the Jerrella Group of Deposits in Visakhapatnam District. Pursuant to this MoU, ANRAK Aluminium Ltd.(Anrak) was incorporated under the laws of India as a Joint Venture between RAKIA/Claimant (with 30% stake) and Penna group Industries. Accordingly, three G.Os. were issued granting following Mining Leases for Bauxite in Visakhapatnam District to M/s APMDC Ltd. for supply of bauxite to said Company.

Sl.No.	Government Order No. & Date	Location	Extent
(1)	G.O.Ms.No.358, Ind., & Com (M.III) Dept, Dt:28.12.2007.	Jerrela Block –I, Chintapalli R.F., Visakhapatnam District.	85.00 Ha
(2)	G.O.Ms.No.359, Ind., & Com(M.III) Dept, Dt:28.12.2007.	Jerrela Block-II & VIII, Chintapalli R.F., Visakhapatnam District.	617.00 Ha
(3)	G.O.Ms.No.360, Ind.,& Com (M.III) Dept, Dt:28.12.2007.	Jerrela Block –III, Chintapalli R.F., Visakhapatnam District.	460. Ha

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The grant of subject Mining Lease made in favour of M/s APMDC is at S.No.3 of the above table.

3. On 30 October 2008, APMDC entered into a Bauxite Supply Agreement (BSA) with Anrak. Earlier, the GoAP vide G.O.Ms.No.222, dt:13.08.2008 and G.O.Ms.No.289, dt:20.10.2008, approved the terms of the BSA, the price mechanism for bauxite and directed APMDC to enter into the BSA with ANRAK Ltd.

4. Later, the GoAP issued G.O.Ms.No.44, Dt.06.04.2016 cancelling its earlier orders issued in G.O.Ms.No.222 and in G.O.Ms.No.289, in which the approval to draft BSA to be entered with M/s ANRAK Ltd. was given and directed APMDC to take necessary action. M/s ANRAK Ltd., have challenged G.O.Ms.No.44 in the writ petition bearing No.12474, before the Hon'ble High Court. The Hon'ble High Court, however, vide its order, Dt.27.04.2016 clarified that the issuance of G.O.Ms.No.44 did not itself terminate the BSA and however, this shall not be construed as preventing the third respondent viz. APMDC to exercise contractual rights if any which are governed by the binding contract between both the parties i.e. M/s ANRAK Ltd., and M/s APMDC Ltd. APMDC issued a show-cause notice to ANRAK on 20.06.2016 in which it was mentioned the objections raised by CAG of India and also the diminishing share of RAKIA in ANRAK to such an extent that it could not have a Director, on the board of ANRAK. Unsatisfied with the reply to the show cause notice, APMDC has cancelled the BSA between APMDC and ANRAK Ltd., on 21.11.2016. Aggrieved by the above cancellation letter, Dt.21.11.2016 of APMDC, M/s ANRAK Ltd., had filed WP No.1108/2017 before the Hon'ble High Court and the case is pending for disposal before the Hon'ble HC.

5. In the reference 2nd read above, the Director of Mines & Geology has reported that APMDC has obtained the required clearances for the Bauxite mines from various authorities. i.e. Approval of Mining Plan from Indian Bureau of Mines, GoI, Stage-I Forest Clearance from GoI, Environmental Clearance from MoEF & CC, GoI during 2007 & 2008. The II stage forest clearance was issued by GoI during 2015 on payment of Rs.125.15 crores to Forest Department towards Net Present Value by ANRAK through APMDC. M/s ANRAK also paid Rs.31.66 Crores by ANRAK through APMDC towards cost for raising the compensatory of Afforestation. The GoAP has issued G.O.Ms.No.97, EFS&T Dept., dt:05.11.2015 diverting Forest Land of 1212 Ha for Mining. M/s ANRAK has established an Alumina Refinery and a power plant at Rachapally (V), Makavaripalem (M) Visakhapatnam District with an estimated investment of Rs.4,500 Crores, approximately.

6. M/s APMDC Ltd., did not obtain CFO for the mines and erect boundary pillars and fencing as per the conditions in the Forest Clearance orders and CFE due to serious security problems in the wake of killing of few persons by Maoists who are opposing bauxite mining. Further the DMG has stated that M/s APMDC Ltd. has failed to execute the lease deed within the time limit of six months, as specified in Rule 31 of the Mineral Concession Rules, 1960 and no extension of time was granted by the Government in favour of M/s APMDC Ltd., for execution of the Lease Deed in respect of the subject lease.

7. Meanwhile, the Ministry of Mines, Government of India, issued the Mines and Minerals (Development and Regulation) Amendment Act, 2015 and the Mineral (Other than Atomic and Hydro Carbon Energy Minerals) Concession Rules 2016. As per section 10A(2)(C) of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, where the Central Government has communicated previous approval as required under sub-section (1) of section 5 for grant of mining lease, or if a letter of intent (by whatever name called) has been issued by the State Government to grant a mining lease , before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, the mining lease

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shall be granted, subject to fulfillment of the conditions of the previous approval or of the letter of intent within in a period two years from the date of Commencement of the said Act. As per Sub- Rule 11 of Rule 7 of the Mineral (Other than Atomic and Hydro Carbon Energy Minerals) Concession Rules 2016 , the state Government shall execute a mining lease deed with the applicant in the format specified in Schedule VII within ninety days of fulfillment of the conditions specified in sub-rule (10) and if no such deed is executed within the said period due to any default on the part of the applicant, the state government may revoke the order granting the lease and in that event the fee paid under sub-rule (3) shall be forfeited to the state government. The Director of Mines & Geology, Andhra Pradesh has, therefore, recommended for revocation of the subject mining lease, granted in favour of the APMDC Ltd., vide G.O. first read above, in accordance with sub-rule (11) of Rule 7 of the Mineral (Other than Atomic and Hydro Carbon Energy Minerals) Concession Rules, 2016.

8. The proposals of the Director of Mines & Geology have been examined. In terms of the grant of lease made in favour of M/s APMDC over the subject area vide G.O. first read above, M/s APMDC could not obtain CFO for the mines and erect boundary pillars and fencing as per the conditions in the forest clearance due to violent opposition to the prospect of mining operations in the tribal areas. The said conditional grant made vide G.O. first read above could only be treated as an in-principle consent for grant of lease or Letter of intent which did not fructify in to a clear grant of lease in favour of M/s APMDC Ltd., within the allowed period of two (2) years by virtue of section 10A(2) (c) of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, which was over by 11.01.2017. The disability of M/s APMDC in proceeding further in securing of compliances as indicated in the initial conditional grant order arose on account of impossibility of performance due to recurring acts of violence in the area because opposition to the prospect of Mining operations in Tribal areas. There were abductions and violent killings which continue unabated to the extent of the murder of one sitting MLA and one former MLA who were considered as supportive of the mining. The local bodies and the tribal advisory council opposed and continue to oppose the prospect of Mining operations as of today rendering the operations unsafe and unviable in the above context. By operation of the law as well as on account of the supervening impossibility of performance of the mining operations in the wake of continued violent agitations against Bauxite Mining, the lease operations can not be conducted in the area and therefore the earlier conditional grant order issued vide G.O. first cited have now become non operative due to the cumulative effect of all the circumstances stated above.

9. The above situation would reflect that having regard to the afflux of time and the express provisions of section 10A(2)(c), the conditional order granted in favor of APMDC is effaced in the eye of law and in the light of the recorded facts of impossibility of mining operations, the said conditional grants is to be revoked.

10. After careful examination of the matter, Government hereby revoke the Mining Lease granted for Bauxite over an extent of 460.000 Hactares in Jarrela Block-III of Chintapalli R.F., Visakhapatnam District in favour of M/s Andhra Pradesh Mineral Development Corporation Ltd., for a period of thirty (30) years, vide G.O. first read above, in accordance with sub-rule (11) of Rule 7 of the Mineral (Other than Atomic and Hydro Carbon Energy Minerals) Concession Rules, 2016.

11. The Director of Mines & Geology, Andhra Pradesh, Ibrahimpatnam, Vijayawada shall take necessary action, accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

K. RAMGOPAL
SECRETARY TO GOVERNMENT

To
The VC & MD, M/s Andhra Pradesh Mineral Development Corporation Ltd.,

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Kanuru (V), Vijayawada.
The Director of Mines & Geology, Andhra Pradesh, Ibrahimpatnam.
Copy to: The Deputy Director of Mines & Geology, Visakhapatnam.
The Asst. Director of Mines & Geology, Visakhapatnam.
The Collector, Visakhapatnam.
The Secretary to Government of India, Ministry of Mines, Shastry Bhawan, New Delhi.
The Controller General, Indian Bureau of Mines, Nagpur.
The Director General, Mines Safety, Dhanbad, Bihar.
The Regional Controller of Mines,Hyderabad Region, Kawadiguda, Secunderabad.
The PS to Minister (PR&RD and M&G).
The PS to Secretary to CM.
The Law (H) Department.
Sf/sc (File No. 19406/M.II(1)/2016-Part(1))(Comp.No.150853)

//FORWARDED BY ORDER//

SECTION OFFICER